

**UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION**

RODNEY GOSS,

Petitioner,

v.

Case No. 09-14485

SHERRY BURT,

Respondent.

**ORDER DENYING MOTION FOR CERTIFICATE OF APPEALABILITY AND
GRANTING MOTION TO PROCEED *IN FORMA PAUPERIS* ON APPEAL**

Adopting an unchallenged report and recommendation, the district court both dismissed Petitioner's *habeas corpus* petition and denied a certificate of appealability. Nevertheless Petitioner submits a "Motion for Certificate of Appealability," construed by the court as a motion for reconsideration. The magistrate judge both recommended that the district court deny a certificate of appealability and directed that Petitioner either raise promptly or waive each objection to the report and recommendation. See *Thomas v. Arn*, 474 U.S. 140 (1985). Having raised no objection, Petitioner may not seek reconsideration. In any event, in his motion Petitioner merely summarizes his points of contention; he offers no analysis and in consequence no basis for further review.

Petitioner also applies to proceed *in forma pauperis* on appeal. Because he appears to present in good faith an appeal that is less than frivolous, he may so proceed. See *Foster v. Ludwick*, 208 F.Supp.2d 750, 764-65 (E.D. Mich. 2002). (He has, by not objecting to the report, created a formidable but not unconquerable barrier

to success on appeal. See *Keeling v. Warden, Lebanon Correctional Inst.*, 673 F.3d 452, 458 (6th Cir. 2012).) Accordingly,

IT IS ORDERED that the motion for a certificate of appealability [Dkt. # 24] is DENIED and that the motion to proceed *in forma pauperis* on appeal [Dkt. # 27] is GRANTED.

s/Robert H. Cleland
ROBERT H. CLELAND
UNITED STATES DISTRICT JUDGE

Dated: May 15, 2013

I hereby certify that a copy of the foregoing document was mailed to counsel of record on this date, May 15, 2013, by electronic and/or ordinary mail.

s/Lisa Wagner
Case Manager and Deputy Clerk
(313) 234-5522